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Letter dated 9 September 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 11 June 2003 (S/2003/647).

The Counter-Terrorism Committee has received the attached third report from Turkmenistan submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 4 September 2003 from the Permanent Representative of Turkmenistan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In reference to your letter dated 11 July 2003, attached please find the third report of the Government of Turkmenistan pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Aksoltan **Ataeva**
Ambassador
Permanent Representative

Enclosure

[Original: Russian]

Report of Turkmenistan on the supplementary questions from the Counter-Terrorism Committee on measures to implement Security Council resolution 1373 (2001)

Paragraph 1: Implementation measures

Paragraph 1.2

Turkmenistan's legislation does not specifically define terrorism as a predicate offence. The Criminal Code of Turkmenistan (art. 271) defines terrorism as causing an explosion or fire or carrying out other acts that jeopardize human life, cause significant property damage or that have other dangerous consequences for society, where those acts are committed to violate public security, cause panic or influence decision-making by government authorities, including the threat to commit such acts for those purposes. Financial institutions establish the identity of their clients on the basis of documents presented upon the opening of currency accounts and may, on their own initiative, report suspicious transactions to the competent authorities in Turkmenistan (Department for Combating Economic Crimes, Ministry of Internal Affairs).

Paragraph 1.3

The obligation of financial institutions to establish the identity of their clients and report suspicious transactions

When money orders in freely convertible currency exceed $5,000 (or its equivalent in another foreign currency) and/or are regular in nature, or the amount involved in transactions over a three-month period totals $15,000, the competent bank is required to request documents from the physical person confirming their origin or grounds for receipt of the funds. (Rules governing the procedure to be followed by banks in the territory of Turkmenistan when carrying out foreign currency transactions, approved by decree No. 5490 of 7 January 2002 on measures to regularize foreign currency transactions in the territory of Turkmenistan.)

The financial institutions of Turkmenistan, including banks, establish their clients' identity, but only report on clients' transactions to competent authorities upon official request, since, in accordance with article 20 of the Act on commercial banks and banking activities, banks of Turkmenistan, including the Central Bank, guarantee secrecy with respect to the transactions, accounts and deposits of their clients and correspondents. All bank staff are required to preserve secrecy with respect to such transactions, accounts and deposits.

Article 11 of the Act on commercial secrecy establishes that the provision of information constituting a commercial secret is defined as the transfer of such information by an authorized person to another person only in the circumstances and on the grounds laid down in Turkmenistan's legislation.

Paragraph 1.4

In accordance with article 61 of the Turkmenistan Civil Code of Saparmurat Turkmenbashi of 17 July 1998, the Ministry of Justice exercises State control over the legality of activities carried out by public organizations and funds. The Ministry of Justice revokes the registration if the public organization or fund has mainly converted to business activities or if its aims, as laid out in its by-laws, become impracticable.

Articles 18 and 19, chapter IV, of the Act on public associations in Turkmenistan, of 12 November 1991, concern monitoring of the activities of public organizations and liability for violations of legislation by such organizations.

Article 18
Monitoring the activities of public organizations

The organs of the General Prosecutor's Office are responsible for supervising compliance with legislation by public organizations.

The Ministry of Justice of Turkmenistan monitors compliance by a public association with the provisions of its by-laws concerning the aims of its activities and may, where necessary, request the public association's management to provide information on decisions adopted, send its representatives to participate in events held by the public association, receive clarifications from the members of the public association and other citizens on questions concerning compliance by the association with its by-laws.

State organs monitor the source of public associations' income, the amount of funds that they receive, and their payment of taxes pursuant to tax legislation.

Article 19
Grounds for liability

Liability is incurred for violating legislation on public associations under Turkmenistan legislation.

Officials of State and public bodies and citizens guilty of violating legislation on public associations are held liable for such violations.

Public associations, including those failing to register their by-laws, are held liable under the law for violating legislation on public associations.

If the public association carries out activities that extend beyond the limits of its purposes and aims as established in its by-laws, or that violate law, the Ministry of Justice of Turkmenistan or the General Prosecutor may issue a written warning to its management.

Paragraph 1.6

The freezing of assets of persons who carry out or attempt to carry out terrorist acts

In accordance with article 21 of the Act on commercial banks and bank activities, the monetary or other assets of juridical persons, including foreign ones, that are held in banks, may only be seized by decision of a court or investigative body, and a penalty may only be imposed on the basis of an enforcement order

handed down by a competent court, or at the request of the State tax inspectorates. The seizure of citizens' monetary or other assets held in banks and the imposition of a penalty may be carried out only on the basis of a sentence or decision handed down by a court. A citizen's monetary or other assets may be confiscated on the basis of a sentence that has acquired force of law, or an order for confiscation of property that has been issued in accordance with the law.

Paragraphs 1.11 and 1.12

Article 7 of the Act on refugees of 12 July 1997 establishes the conditions under which refugee status is not granted to a person, in respect of whom there are serious grounds to believe that he or she:

- Has committed a crime against peace, a military crime or a crime against humanity, as defined in international agreements drafted for the purpose of taking measures in respect of such crimes;
- Has committed a serious crime of a non-political nature outside Turkmenistan before being admitted to Turkmenistan as a refugee;
- Is guilty of committing acts that run counter to the purposes and principles of the United Nations.

In addition, refugee status is not granted to a person:

- Whose rights and obligations as a citizen of the State in which he or she resides are recognized and guaranteed by the competent authorities of that State,
- Who was present, before arriving in Turkmenistan, in a State in which he or she could have obtained asylum or official refugee status in accordance with established procedure.

In accordance with article 9 of the above-mentioned Act, a person shall lose refugee status if he participates in activities which constitute, on the basis of well-founded reasons, a threat to Turkmenistan's State security or social order, or if he participates in activities that run counter to the purposes and principles of the United Nations.

Paragraphs 1.13, 1.14, 1.16 and 1.17

Act on the legal status of foreign nationals in Turkmenistan of 8 October 1993

Article 24
Entry into Turkmenistan

A foreign national may be refused entry into Turkmenistan by the Ministry of Foreign Affairs of Turkmenistan and the State Service for the Registration of Foreign Nationals, including upon representations by the Ministry of Internal Affairs or the Ministry of National Security, or, if necessary, in coordination with other State authorities concerned:

1. In the interests of safeguarding national security or social order;

2. If necessary to protect the rights and lawful interests of the citizens of Turkmenistan and other persons;

3. If, during a previous stay in Turkmenistan, he was found to have violated legislation on the legal status of foreign nationals in Turkmenistan, or customs and currency legislation, or if he engaged in propaganda activities running counter to the interests of Turkmenistan;

4. If, upon submitting an application for entry, he provided false personal information or did not submit the necessary documents;

5. If the person has previously committed a crime in the territory of Turkmenistan;

6. On other grounds established under the legislation of Turkmenistan.

Article 25
Departure from Turkmenistan

The departure of a foreign national from Turkmenistan is not authorized by the Ministry of Foreign Affairs of Turkmenistan or the State Service for the Registration of Foreign Nationals, inter alia, upon representations by the Ministry of Internal Affairs or the Ministry of State Security, or, if necessary, in coordination with other State authorities concerned:

1. Before the completion of proceedings, if there are grounds for bringing criminal charges against him;

2. Before completion of or release from punishment, if he has been convicted of committing a crime;

3. While the circumstances preventing his departure still apply, if his departure runs counter to the interests of national security;

4. If there are other circumstances preventing his departure under the legislation of Turkmenistan.

A foreign national's departure from Turkmenistan may be delayed until he has fulfilled property obligations relating to the vital interests of citizens of Turkmenistan or other persons, or State, cooperative or other public organizations.

Article 26
Transit passage

Foreign nationals passing in transit through the territory of Turkmenistan proceed in compliance with the regulations on transit passage to the border point for departure from Turkmenistan along the established route and may stop in the territory of Turkmenistan if they possess a permit issued by the competent authorities in Turkmenistan.

Foreign nationals who have received the title of "Honorary Citizen of Turkmenistan" passing in transit through the territory of Turkmenistan may stop in the territory of Turkmenistan without a permit issued by the competent authorities of Turkmenistan.

Article 28
Grounds for liability for violations of the law

Foreign nationals who have committed crimes, or administrative or other violations of the law in the territory of Turkmenistan are equally liable under Turkmenistan law as nationals of Turkmenistan.

Article 31
Expulsion from Turkmenistan

A foreign national may be expelled from Turkmenistan:

1. If his actions run counter to the interests of safeguarding national security or maintaining social order;

2. If such is necessary to preserve the health of the population and public morals, or to protect the rights and legitimate interests of the citizens of Turkmenistan and other persons;

3. If he has flagrantly violated laws on the legal status of foreign nationals in Turkmenistan, or customs, currency or other laws of Turkmenistan.

A decision to expel a person from Turkmenistan is taken by internal affairs organs. The foreign national is required to leave Turkmenistan within the period specified in the decision. Persons seeking to avoid leaving in such cases are liable to detention by approval of the General Prosecutor, and forced expulsion. In such case, detention is permitted for the period required for expulsion.

Act of Turkmenistan on the procedure for the departure from and entry into Turkmenistan of Turkmen citizens (15 June 1995)

Article 7
Grounds for temporary restrictions on the right to leave Turkmenistan

A Turkmen citizen may be temporarily prohibited from leaving Turkmenistan if:

1. He has information that constitutes a State secret, until the circumstances preventing his departure cease to apply;

2. A criminal case has been instituted against him, until the completion of proceedings in the case;

3. He has been convicted of an offence, until he has served his sentence or been exempted from punishment;

4. He avoids fulfilling obligations imposed on him by a court, until the obligations have been fulfilled;

5. He has knowingly given false information about himself;

6. He is liable to conscription for military service, until he has completed the military service or been exempted therefrom as provided by law;

7. A civil suit has been brought against him in a court, until the completion of proceedings in the case.

The cases stipulated in paragraphs 1 to [illegible] of this article may constitute grounds for prohibiting the departure from Turkmenistan of a person departing to a permanent residence and in paragraphs 1 to 5 of section 1 of this article of a person departing for a temporary stay.

Regulations on the procedure for granting permits for permanent residence in Turkmenistan, approved by decree No. 5833 of the President of Turkmenistan of 20 August 2002

III. Grounds for refusal to grant a Turkmen residence permit

9. A foreign national or stateless person may be refused a Turkmen residence permit in the following cases:

(a) If he has committed a crime against humanity;

(b) If he has committed a serious crime or if a criminal case has been instituted against him;

(c) If his residence in the territory of Turkmenistan runs counter to the national security interests of Turkmenistan, may breach public order or cause damage to public morals in the State;

(d) If he is infected with HIV or a venereal or other disease included in the list drawn up by the Ministry of Health and the Medical Industry or is a drug addict;

(e) If he has knowingly given false information in order to obtain a Turkmen residence permit;

(f) If restrictions have previously been placed on [his right to] enter Turkmenistan, until the expiration of the restrictions.

V. Procedure for declaring invalid and revoking Turkmen residence permits

11. The Turkmen residence permit shall be declared invalid and revoked if the person:

(a) Knowingly gave false information when obtaining the Turkmen residence permit;

(b) Is convicted by judgement of a court of committing a serious premeditated offence;

(c) Provokes well-founded fears of a breach of public order or is a threat to the State's national security interests;

(d) Is a member of a terrorist, anti-State, extremist or other criminal organization, and in other cases stipulated by Turkmen legislation.

The State Foreign National Registration Service was established by decree No. 6133 of 21 February 2003 to improve State control of migration and strengthen monitoring of compliance with existing legislation on the entry into, departure from and stay in Turkmenistan of foreign nationals and stateless persons. The Service's main tasks are:

- Controlling and preventing illegal migratory flows and the adverse effects thereof;

- Creating a data bank (centre) of information on the migratory process and introducing an automated data-processing system to facilitate monitoring and utilization of the information;
- Coordinating the activities of national and international organizations in settling migration issues;
- Preventing discrimination, ensuring respect for human rights and taking account of national customs and traditions in deciding migration issues;
- Issuing entry and exit visas;
- Protecting the home labour market and monitoring compliance by foreign enterprises, foreign nationals and stateless persons with Turkmen legislation on migration issues;
- Preparing materials relating to the acquisition, restoration and surrender of Turkmen citizenship, granting Turkmen residence permits and issuing relevant documents;
- Accounting for and registering persons who receive Turkmen residence permits;
- Safeguarding national security and protecting Turkmen interests in the field of migration.

In accordance with paragraph 18 of the *Regulations on the procedure for the entry into, departure from and stay in Turkmenistan of foreign nationals*, approved by decree No. 6135 of the President of Turkmenistan of 21 February 2003, registration of foreign nationals takes place in the organs of the State Foreign National Registration Service:

- At migration control points on the State border of Turkmenistan;
- In the Service's subdivisions in the regions (*velayats*).

Registration of foreign nationals arriving in Turkmenistan under the simplified procedure for [stays of] up to five days is carried out solely at migration control posts. Foreign nationals arriving in Turkmenistan under the simplified procedure must leave Turkmenistan via the migration control post through which they entered.

Registration of foreign nationals travelling in transit through the territory of Turkmenistan is carried out solely at migration control posts if the duration of their stay in Turkmenistan does not exceed five days.

In article 56 of section 1 of the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases, of 22 January 1993, signed by the countries of the Commonwealth of Independent States (CIS), the Contracting Parties *pledge* to extradite to one another for criminal prosecution persons present in their territories. The Contracting Parties thus have a *duty*, under these international instruments, to extradite to one another persons who have committed offences, including terrorist acts. These international instruments contain comprehensive lists of the grounds for refusal to extradite, in articles 57 and 19 respectively. They do not recognize any political motives as grounds for refusal to extradite.

On the basis of the above-mentioned articles 57 and 19, Turkmenistan may refuse to extradite a terrorist: (1) if he is a citizen of Turkmenistan (in such case,

under article 72 of the Minsk Convention, Turkmenistan must prosecute him on behalf of the other party); (2) if, under Turkmen legislation, the statute of limitations for the offence committed by him has expired; (3) if he has already been tried in Turkmenistan for the same offence or a decision has been taken to terminate the proceedings in the case.

The answer to the question of whether Turkmenistan applies the "prosecute or extradite" principle of international law is thus in the affirmative.

It should be noted that, to date, the Office of the Prosecutor General has not received from other States any requests for the extradition of terrorists (extradition issues are dealt with by the Prosecutor General).

As to the legal provisions stipulating the grounds for providing mutual legal assistance in general and, in particular, in criminal cases, such assistance is provided both on the basis of international agreements and on the grounds of reciprocity (in the case of States with which Turkmenistan has not concluded agreements on mutual assistance).

In the event that the State border of Turkmenistan is violated, under existing Turkmen legislation, the border violator is liable to both administrative and criminal penalties. In conformity with article 214 of the Criminal Code, the illegal crossing of the State border with criminal intent is punishable by up to five years' imprisonment.

In the event that the State border is crossed illegally for the purpose of moving across it goods or other items which are prohibited from being exported from or imported into Turkmenistan, the perpetrators are prosecuted under article 254 (Smuggling) of the Criminal Code, which stipulates penalties for this act in the form of fines or imprisonment for 5 to 10 years, depending on the seriousness of the offence committed.

If suspicion arises as to the authenticity of the identity papers and travel documents of persons crossing the State border, the border control organs of the State Border Service of Turkmenistan employ special technical equipment for more thorough examination of the documents presented. If instances of counterfeiting, forgery or fraudulent use of identity papers and travel documents are uncovered, the persons presenting them are liable to arrest, with border violators subsequently being transferred to the law enforcement agencies of Turkmenistan. Based on the outcome of appropriate measures which are carried out, the category and degree of the violation are determined, after which the measures stipulated in Turkmen legislation are applied to the persons who have committed the violation of the rules on crossing the State border at passage points.

Turkmenistan is a party to the following international counter-terrorist instruments:

International Convention against the Recruitment, Use, Financing and Training of Mercenaries (Decision No. 158-1 of the Majlis (Parliament) of Turkmenistan of 18 June 1996);

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Decision No. 267-1 of the Majlis (Parliament) of Turkmenistan of 24 December 1997);

International Convention for the Suppression of Terrorist Bombings (Decision No. 365-1 of the Majlis (Parliament) of Turkmenistan of 30 April 1999);

Convention on Offences and Certain Other Acts Committed on Board Aircraft (Decision No. 366-1 of the Majlis (Parliament) of Turkmenistan of 30 April 1999);

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Decision No. 367-1 of the Majlis (Parliament) of Turkmenistan of 30 April 1999);

Convention for the Suppression of Unlawful Seizure of Aircraft (Decision No. 368-1 of the Majlis (Parliament) of Turkmenistan of 30 April 1999);

Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Decision No. 369-1 of the Majlis (Parliament) of Turkmenistan of 30 April 1999);

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Decision No. 370-1 of the Majlis (Parliament) of Turkmenistan of 30 April 1999);

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (Decision No. 371-1 of the Majlis (Parliament) of Turkmenistan of 30 April 1999);

International Convention against the Taking of Hostages (Decision No. 373-1 of the Majlis (Parliament) of Turkmenistan of 30 April 1999);

Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Decision No. 374-1 of the Majlis (Parliament) of Turkmenistan of 30 April 1999).

Turkmenistan has concluded bilateral agreements and treaties with the following States:

Treaty between Turkmenistan and Georgia on the Mutual Provision of Legal Assistance in Civil and Criminal Cases (20 March 1996);

Treaty between Turkmenistan and the Republic of Uzbekistan on Legal Assistance and Legal Relations in Civil, Criminal and Family Cases (27 November 1996);

Treaty between Turkmenistan and the Republic of Armenia on Legal Assistance and Legal Relations in Civil, Criminal and Family Cases (29 November 2000);

Agreement between the Government of Turkmenistan and the Government of the Islamic Republic of Iran on the Mutual Provision of Legal Assistance in Criminal Cases (11 March 2003);

Treaty between Turkmenistan and the Russian Federation on the Transfer of Persons Sentenced to Imprisonment to Serve Out Their Sentences (18 May 1995).

Turkmenistan is a party to the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases, signed within the framework of CIS on 22 January 1993 in Minsk (the Convention entered into force for Turkmenistan on 21 January 1998).

In addition, it should be noted that, on 30 December 2002, the People's Council of Turkmenistan passed a resolution in which the Majlis (Parliament) of Turkmenistan recommended the elaboration of a draft special act of Turkmenistan on combating terrorism. The Act of Turkmenistan on combating terrorism (15 August 2003) was adopted at the 14th meeting of the People's Council of Turkmenistan.

This Act defines the legal and organizational bases for combating terrorism in Turkmenistan, the modus operandi of and procedure for cooperation among State agencies, organizations — irrespective of the form of ownership — and public associations in combating terrorism and the rights and duties of and safeguards for citizens with respect to efforts to combat terrorism.

The main aims of counter-terrorism are the protection of the individual, society and the State from terrorism; the prevention, detection and suppression of terrorist activity and the minimization of its consequences; the identification and elimination of causes and conditions conducive to terrorist activity.

The Act covers various areas of counter-terrorism and includes, inter alia, provisions regulating international cooperation by Turkmenistan in combating terrorism and the responsibility of individuals and organizations for involvement in terrorist activity and so forth.

Criminal Code of Turkmenistan of 12 June 1997

Part I
Criminal law of Turkmenistan

Section 2
Applicability of criminal law in time and space

Article 7
Criminal law in respect of persons who have committed crimes in the territory of Turkmenistan

1. Persons who have committed crimes in the territory of Turkmenistan shall be subject to liability under Turkmenistan's criminal law.

2. Crimes committed within Turkmenistan's territorial waters or airspace shall be considered as having been committed in the territory of Turkmenistan. The Criminal Code shall also apply to crimes committed on the continental shelf and in the maritime economic zone of Turkmenistan.

3. A person who has committed a crime on board a vessel registered in a port of Turkmenistan and situated in the water space or airspace beyond its borders shall be liable under Turkmenistan's criminal law, unless otherwise provided for under an international treaty to which Turkmenistan is a party.

4. When a crime is committed in the territory of two or more States, liability shall be incurred under Turkmenistan's criminal law if the crime is halted or suppressed in the territory of Turkmenistan.

5. The question of the criminal liability of diplomatic representatives of foreign States and other persons who enjoy immunity when such persons commit a

crime in the territory of Turkmenistan shall be resolved on the basis of the norms of international law and the international treaties to which Turkmenistan is a party.

Article 8
Criminal law in respect of persons who have committed crimes outside Turkmenistan

2. Foreign nationals and stateless persons who are not permanently residing in Turkmenistan shall be subject to liability under the criminal law of Turkmenistan for a crime committed outside Turkmenistan if the crime was directed against Turkmenistan or its citizens and also in the cases provided for under international treaties to which Turkmenistan is a party, if they have not been convicted in a foreign State and have been charged with criminal liability in the territory of Turkmenistan.

Article 9
Extradition of persons who have committed a crime

1. Citizens of Turkmenistan who have committed a crime in the territory of a foreign State shall not be subject to extradition to that State.

2. Foreign nationals and stateless persons who have committed a crime outside Turkmenistan and are situated in the territory of Turkmenistan may be extradited to a foreign State for criminal prosecution or to serve a sentence in accordance with the international treaties to which Turkmenistan is a party and the agreements, conventions and other international legal documents to which Turkmenistan has acceded.

Part VIII
Crimes against peace and the security of mankind

Section 21
Crimes against peace and the security of mankind

Article 167
War propaganda

War propaganda, that is, the dissemination through the mass media or by some other means of calls for a war of aggression shall be punishable by corrective labour for up to two years or imprisonment for up to five years.

Article 168
Genocide

Genocide, that is, premeditated acts committed for the purpose of the total or partial annihilation of any national, ethnic, racial or religious group and involving the murder of members of such a group, the infliction of bodily injury, the creation of life-threatening conditions directed at their total or partial physical annihilation, the forced reduction of childbearing or the forced transfer of children from one group of people to another, as well as the issuing of orders to commit such actions, shall be punishable by imprisonment for 15 to 25 years.

Article 169
Mercenarism

1. The recruitment, training, financing or other material support of mercenaries, as well as their use in armed conflict or other military actions shall be punishable by imprisonment for 3 to 8 years.

2. The participation of mercenaries in armed conflict or military actions shall be punishable by imprisonment for 5 to 10 years.

Note: A mercenary is defined as a person who acts in order to obtain material compensation, is not a national of a State participating in the armed conflict or military actions, is not a permanent resident in its territory, and has not been sent to carry out official duties.

Article 170
Attacks on persons enjoying international protection

1. Attacks against representatives of foreign States or officials of international organizations enjoying international protection, or the official premises, housing or means of transport of persons enjoying international protection, if such actions are directed at provoking war or complicating international relations, shall be punishable by imprisonment for 5 to 10 years.

2. The same acts, causing a person's death, or other serious consequences, shall be punishable by imprisonment for 10 to 25 years.

Part XI
Crimes in the economic sphere

Section 27
Crimes in violation of regulations governing economic activities

Article 242
Legalization of monetary assets or other property obtained illegally

1. The carrying out of financial operations and other transactions using monetary assets or other property knowingly obtained illegally, as well as the use of the aforementioned assets or property to conduct entrepreneurial or other economic activities shall be punishable by a fine of 50 to 100 times the average monthly wage or by corrective labour for up to two years or imprisonment for up to two years.

2. The same acts, when committed:

(a) Repeatedly;

(b) By a group of persons on the basis of prior agreement or an organized group;

(c) By a person using his official position

– shall be punishable by imprisonment for 2 to 5 years, with or without confiscation of property.

Article 254
Smuggling

1. Smuggling, that is, the large-scale transfer across the customs border of Turkmenistan of goods or other items for which special rules have been established regarding their transfer across the customs border of Turkmenistan, with the exception of the goods and items referred to in paragraph 3 of this article, carried out without the knowledge of or in concealment from customs inspectors or through the fraudulent use of documents or means of customs identification, or involving the failure to make a declaration or the making of a false declaration, shall be punishable by a fine of 25 to 50 times the average monthly wage or corrective labour for up to two years or imprisonment for up to three years, with or without confiscation of property.

2. The act referred to in paragraph 1 of this article committed:

(a) Repeatedly;

(b) By a group of persons on the basis of prior agreement or an organized group;

(c) By an official using his position or by a person exempt from customs inspections;

(d) With the use of violence against a person conducting customs inspections

– shall be punishable by imprisonment for 2 to 5 years, with or without confiscation of property.

3. The transfer across the customs border of Turkmenistan of narcotic drugs, psychotropic, virulent, toxic, poisonous or radioactive substances, explosives, arms, explosive devices, firearms or ammunition, nuclear, chemical, biological and other types of weapons of mass destruction, materials and equipment that may be used to produce weapons of mass destruction and for which special rules have been established regarding their transfer across the customs border of Turkmenistan, strategically important raw materials, and valuable cultural artefacts for which special rules have been established regarding their transfer across the customs border of Turkmenistan, if such act is committed without the knowledge of or in concealment from customs inspectors or through the fraudulent use of documents or means of customs identification, or involves the failure to make a declaration or the making of a false declaration, shall be punishable by imprisonment for 3 to 8 years, with or without confiscation of property.

4. The act referred to in paragraph 3 of this article committed:

(a) Repeatedly;

(b) By a group of persons on the basis of prior agreement or an organized group;

(c) By an official using his position or by a person exempt from customs inspections;

(d) With the use of violence against a person conducting customs inspections

– shall be punishable by imprisonment for 5 to 10 years, with or without confiscation of property.

Note: The act referred to in paragraph 1 of this article is deemed to have been committed on a large scale if the value of the goods transferred is more than 30 times the average monthly wage.

Part XII
Crimes against public security and public health

Section 29
Crimes against public security and social order

Article 271
Terrorism

1. Terrorism, that is, causing an explosion or fire or other acts that jeopardize human life, cause significant property damage or have other dangerous consequences for society, where those acts are committed to violate public security, cause panic or influence decision-making by government authorities, including the threat to commit such acts for those purposes, shall be punishable by imprisonment for 5 to 10 years.

2. Those same acts, when committed:

(a) Repeatedly;

(b) With the use of firearms;

(c) By a group of people on the basis of prior agreement

– shall be punishable by imprisonment for 8 to 15 years.

3. If the acts described in paragraphs 1 and 2 of this article cause death or are committed by an organized group or a criminal organization, they shall be punishable by imprisonment for 10 to 25 years.

Note: A person who has participated in the preparation of an act of terrorism is exempted from criminal liability if he has provided a timely warning to the authorities or by some other means has helped to prevent an act of terrorism and if he has not committed other offences.

Article 272
Provision of deliberately false information about a terrorist act

The provision of deliberately false information about an imminent explosion or act of arson or other actions that create the danger of loss of life, extensive property damage or other dangerous consequences for society shall be punishable by corrective labour for up to two years or imprisonment for up to two years.

Article 273
Organization of an illegal armed unit or participation therein

1. The establishment of an armed unit not provided for in the legislation of Turkmenistan and the leadership of such a unit shall be punishable by imprisonment for 3 to 8 years.

2. Participation in an illegal armed unit shall be punishable by imprisonment for up to five years.

Note: A person who ceases voluntarily to participate in an illegal armed unit and surrenders his weapon is exempted from criminal liability provided that he has not committed other offences.

Article 274
Banditry

1. The establishment of a standing organized armed group (band) for the purpose of attacking citizens or organizations, the leadership of such a group (band) and participation in attacks committed by a band shall be punishable by imprisonment for 10 to 25 years, with or without confiscation of property.

2. Participation in an armed group (band) shall be punishable by imprisonment for 5 to 15 years, with or without confiscation of property.

Article 275
Organization of a criminal association or participation therein

1. The establishment of a criminal association for the purpose of committing serious or especially serious offences, and the leadership of such an association shall be punishable by imprisonment for 8 to 15 years, with or without confiscation of property.

2. Participation in a criminal association shall be punishable by imprisonment for 3 to 10 years, with or without confiscation of property.

Article 287
Illegal acquisition, sale, possession, transport, sending or bearing of weapons, ammunition, explosives or explosive devices

1. The illegal acquisition, sale, possession, transport, sending or bearing of firearms, ammunition, explosives or explosive devices shall be punishable by imprisonment for up to five years.

2. The same acts committed by a group of persons on the basis of prior agreement or on repeated occasions shall be punishable by imprisonment for 2 to 7 years.

3. The acts referred to in paragraphs (1) and (2) of this article committed by an organized group or a criminal association shall be punishable by imprisonment for 5 to 10 years.

4. The illegal sale or bearing of daggers, Finnish knives or other edged weapons, including throwing-weapons, and the illegal sale of gas pistols, gas cylinders or other gas weapons shall be punishable by a fine of 25 to 50 times the average monthly wage or by corrective labour for up to two years or by imprisonment for up to two years.

Note: A person who voluntarily surrenders items referred to in this article is exempted from criminal liability provided that he has not committed other offences.

Article 288
Illegal manufacture of weapons

1. The illegal manufacture or repair of firearms or firearm spare parts, and the illegal manufacture of ammunition, explosives or explosive devices shall be punishable by imprisonment for up to three years.

2. The same acts committed by a group of persons on the basis of prior agreement or on repeated occasions shall be punishable by imprisonment for 2 to 5 years.

3. The illegal manufacture of gas weapons, daggers, Finnish knives or other edged weapons, including throwing-weapons, shall be punishable by corrective labour for up to two years or by imprisonment for up to three years.

Note: A person who voluntarily surrenders items referred to in this article is exempted from criminal liability provided that he has not committed other offences.

Article 290
Failure to properly implement obligations in respect of the possession of weapons, ammunition, explosives or explosive devices

The failure to properly implement obligations on the part of a person entrusted with the possession of firearms, ammunition, explosives or explosive devices, if it has led to their theft or destruction, or to other serious consequences, shall be punishable by corrective labour for up to two years or imprisonment for up to two years.

Article 291
Theft or extortion of weapons, ammunition, explosives or explosive devices

1. The theft or extortion of firearms, firearm spare parts, ammunition, explosives or explosive devices shall be punishable by imprisonment for 3 to 8 years.

2. The same acts, if committed:

(a) By a person who has been entrusted with weapons, ammunition, explosives or explosive devices in connection with his official status, or who is responsible for guarding them;

(b) Repeatedly;

(c) By a group of persons on the basis of prior agreement;

(d) With the use of force that does not endanger life or health

– shall be punishable by imprisonment for 5 to 10 years.

3. The acts referred to in paragraphs (1) and (2) of this article, if committed with use of force that does not endanger life or health, by an organized group or criminal association, shall be punishable by imprisonment for 8 to 15 years.